

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

IN RE)	
JAMES ANDREW PARKER)	Case No. 3:20-bk-30458-SHB
)	
Debtor)	Chapter 13
)	

**MOTION FOR CONTEMPT &
MOTION FOR TURNOVER OF FUNDS**

Notice is hereby given that:

A hearing will be held on the Motion for Turnover of Funds & Motion for Contempt on [August 10, 2022, at 9:00 a.m.](#), in Courtroom 1-C, located at United States Bankruptcy Court, Howard H. Baker Jr., U.S. Courthouse, 800 Market Street, Knoxville, TN 37902.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.

Comes now the Debtor, James Andrew Parker (“Debtor”) by and through Counsel, and for this Motion for Contempt & Motion for Turnover of Funds respectfully would show the Court as follows:

1. Debtor filed a voluntary Chapter 13 petition on February 15, 2020.
2. Jefferson Memorial Hospital (“Creditor”) is listed as a secured creditor in Debtor's schedules as having a judgment lien (Dkt#40285) on debtor’s property located at 1808 Rocky Valley Road, New Market, TN 37820. A copy is attached hereto as **Exhibit 1** and incorporated by reference.

3. Creditor received notice of Debtor's chapter 13 bankruptcy case from the Bankruptcy Noticing Center on February 21, 2020. A Copy of the Certificate of Notice is attached hereto as **Exhibit 2** and incorporated by reference.
4. The Creditor's lien was avoided and treated as an unsecured claim per the confirmed chapter 13 plan. A copy is attached hereto as **Exhibit 3** and incorporated by reference.
5. On June 2, 2020, Creditor executed a levy (Dkt#40285) on Debtor's checking account withdrawing One Thousand One Hundred Seventy-Five Dollars and Thirty-Seven Cents (\$1,175.37) post-petition. Additionally, a One Hundred Dollar (\$100.00) levy fee was also withdrawn. A copy of the Debtor's bank transaction history is attached hereto as **Exhibit 4** and incorporated by reference.
6. On June 10, 2020, Mayer and Newton sent Creditor a letter requesting a full refund of the money levied from Debtor's bank account post-petition as well as a copy of the notice of bankruptcy filing. Creditor deposited the refund in Debtor's account within a few days of the letter. A copy of the letter is attached hereto as **Exhibit 5** and incorporated by reference.
7. On July 11, 2022, Creditor executed a levy (Dkt#40285) on Debtor's checking account withdrawing Nine Hundred Eighty-Six Dollars and Ninety-Three Cents (\$986.93) post-petition. Additionally, a One Hundred Dollar (\$100.00) levy fee was also withdrawn. A copy of the Debtor's bank transaction history is attached hereto as **Exhibit 6** and incorporated by reference.
8. In summation, Creditor has directly violated the Automatic Stay on more than one occasion. As a result of the violations of the Automatic Stay, the Debtor has sustained

- actual damages. The Debtor prays that the court award appropriate damages, including actual damages, attorney fees, punitive damages, and any other relief to which the Debtor may be entitled. See 11 U.S.C. § 362(k).
9. The Debtor requests a turnover order for the funds levied by Creditor, pursuant to 11 U.S.C. § 542.

WHEREFORE, the Debtor prays that this Court:

- A. Find Jefferson Memorial Hospital is in willful violation of the Automatic Stay.
- B. Enter an Order requiring Jefferson Memorial Hospital turn over funds in the amount of One Thousand Eighty-Six Dollars and Ninety-Three Cents (\$1,086.93) to the Debtor.
- C. Award actual damages, attorney fees, and punitive damages to the Debtor as may be appropriate under 11 U.S.C. § 362(k).
- D. Grant the Debtor such other and further relief to which he may be entitled.

DATED: July 12, 2022

s/ John P. Newton, Jr.#010817
s/ Richard M. Mayer, #5534
Law Office of Mayer & Newton
Attorneys for Debtor
1111 Northshore Drive, S-570
Knoxville, TN 37919
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CERTIFICATE OF SERVICE

We the undersigned certify that a true and correct copy of the foregoing Motion, Exhibits and Proposed Order have been served by first class U.S. Mail (USM), ECF, Fax and/or Email on the following:

Tiffany DiIorio (Email)
United States Trustee
tiffany.diiorio@usdoj.gov

Gwendolyn M. Kerney (ECF)
Chapter 13 Trustee

Jefferson Memorial Hospital (USM & Fax)
c/o Wakefield & Associates
P.O. Box 51272
Knoxville, TN 37950-1272
(Fax: 865-342-9415)

Russell T. Fisher, Esq. (USM & Email)
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Knoxville TVA Employees Credit Union (USM & Fax)
662 E. Broadway Blvd.
Jefferson City, TN 37760
(Fax: 865-437-5340)

Dated: July 12, 2022

s/ John P. Newton, Jr.#010817
s/ Richard M. Mayer, #5534